



SUBJECT	X	ACTION
		INFORMATION
		PUBLIC HEARING
Multiple Parcel Hutchinson Road/E. Zayante Creek Territory Transfer Appeal: From Scotts Valley Unified School District in Santa Cruz County to Los Gatos-Saratoga Joint Union High School District and Loma Prieta Joint Union Elementary School District in Santa Clara County.		

Recommendation:

Based solely on the administrative record: (1) reverse the decision of the Santa Clara County Committee on School District Organization (SDO); (2) approve the territory transfer appeal; and (3) establish the area of election as that of the petition area by adopting the proposed resolution. (Attachment 2)

Summary of Previous State Board of Education Discussion and Action

This is a new appeal before the State Board of Education (SBE).

Summary of Key Issue(s)

This is an appeal by the chief petitioners under *Education Code* Section 35710.5 of the Santa Clara County Committee on SDO's action to deny a petition to transfer three parcels of land on Hutchinson Road/E. Zayante Creek in Santa Cruz County. The petition proposed the transfer of territory from the Scotts Valley Unified School District (USD) in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District (HSD) and the Loma Prieta Joint Union Elementary School District (ESD) in Santa Clara County. The Scotts Valley USD and the Loma Prieta Joint Union ESD support the transfer, while the Los Gatos-Saratoga Joint Union HSD opposes the transfer.

The Santa Cruz County Committee on SDO concluded that the petition substantially complied with the nine criteria of *Education Code* Section 35753(a) and unanimously approved the transfer of territory. The Santa Clara County Committee on SDO concluded that this petition substantially complied with the nine criteria of *Education Code* Section 35753(a) with the exception of *Education Code* Section 35753(a)(8), which states, "The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to another." The vote to approve this criterion failed on a three to five vote with two members absent. The Santa Clara County Committee on SDO agreed with the Santa Clara County Office of Education study team's statement, "The study team does not find the petitioners rationale to be compelling." The Santa Clara County Committee on SDO denied the transfer by a three to five vote with two members absent. The petition was disapproved.

The chief petitioners are appealing the Santa Clara County Committee on SDO's action, stating that they have met all nine criteria of *Education Code* Section 35753(a). They further assert that the reasons are compelling because the duration of the trip to Scotts Valley schools is double that of the trip to Loma Prieta schools, the safety of the commute is dramatically better to Loma Prieta Schools, there is daily bus service to Loma Prieta and Los Gatos schools, they must travel through Loma Prieta and Los Gatos schools' territory in order to travel to Scotts Valley schools, and their community identity is with Los Gatos.

Summary of Key Issue(s)

California Department of Education (CDE) staff concurs with the conclusion of the Santa Cruz County Committee on SDO and the appellants' that the nine criteria of *Education Code* Section 35753(a) have been substantially met. Additionally, CDE staff finds that there are compelling reasons for the transfer. The appellants currently live on the same street that the property to be transferred is located. Their current residence is in the Los Gatos-Saratoga Joint Union HSD and the Loma Prieta Joint Union ESD. It appears to CDE staff that this transfer would be desired by the appellants regardless of property value. Accordingly, CDE staff recommends the SBE, following a review based solely on the administrative record, reverse the action of the Santa Clara County Committee on SDO by granting the appeal and approving the transfer of territory.

Fiscal Analysis (as appropriate)

There are no significant state level fiscal effects to be considered.

Attachment(s) to this Agenda Item

(Please indicate if additional material will be provided in the supplemental agenda)

[Attachment 1](#): Hutchinson Road/E. Zayante Creek (Multiple Parcel) Territory Transfer Appeal Analysis of Statement of Reasons and Factual Evidence (Pages 1-6)

[Attachment 2](#): Proposed Resolution (Page 1 of 1)

Attachment 3: Appeal for School District Transfer of Parcels (Pages 1-12)

Attachment 4: Santa Clara County Committee on School District Organization Geographic Isolation Criteria (Page 1 of 1)

[Attachment 5](#): Alternative Proposed Resolution (Page 1 of 1)

**HUTCHINSON ROAD/E. ZAYANTE CREEK (MULTIPLE PARCEL)
TERRITORY TRANSFER
APPEAL ANALYSIS OF STATEMENT OF REASONS AND FACTUAL EVIDENCE**

RECOMMENDATION

California Department of Education (CDE) staff recommends that the State Board of Education (SBE) reverse the action of the Santa Clara County Committee on School District Organization (SDO) in disapproving the proposed transfer and support the action of the Santa Cruz County Committee on SDO in approving the proposed transfer of territory by granting the appeal and adopting the resolution in Attachment 2.

BACKGROUND

The chief petitioners (hereinafter appellants) have appealed the Santa Clara County Committee on SDO's disapproval of a petition to transfer property adjacent to and on Hutchinson Road/E. Zayante Creek in Santa Cruz County from the Scotts Valley Unified School District (USD) in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District (HSD) and Loma Prieta Joint Union Elementary School District (ESD) in Santa Clara County. The area proposed for transfer includes three parcels of land totaling approximately 38 acres. The lots are currently uninhabited.

The Santa Cruz County Committee on SDO concluded that this petition substantially complied with the nine criteria of *Education Code* Section 35753(a) and unanimously approved the transfer of territory. The Santa Clara County Committee on SDO concluded that this petition substantially complied with *Education Code* Section 35753(a) with the exception of *Education Code* Section 35753(a)(8), which states, "The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to another." The vote to approve this criterion failed on a three to five vote with two members absent. The Santa Clara County Committee on SDO agreed with the Santa Clara County Office of Education's (COE) study team statement, "The study team does not find the petitioners rationale to be compelling." The Santa Clara County Committee on SDO denied the transfer by a three to five vote with two members absent.

POSITIONS OF AFFECTED DISTRICTS

The governing board of the district in which the property is currently located, the Scotts Valley USD, and that of one of the two districts that would have received the property, the Loma Prieta Union ESD, both unanimously consented to the proposed transfer. However, the Los Gatos-Saratoga Joint Union HSD opposes the transfer.

APPEAL

Education Code Section 35710.5 limits appeals of denials of territory transfers to issues of noncompliance with the provisions of sections 35705, 35706, 35709, 35710 and, by references in sections 35709 and 35710, to the nine criteria prescribed in Section 35753(a) for proposals to reorganize school districts. If the nine criteria in Section 35753(a) are substantially met, county committees on school district organization may, but are not required to, approve the reorganization proposal.

The appellants in this case state that the original territory transfer petition met all nine criteria listed in *Education Code* Section 35753(a); in addition, access to Scotts Valley schools requires them to drive on Highway 17, which is an extreme safety concern, and they are part of the Los Gatos community (Attachment 3).

STAFF ANALYSIS

In evaluating the appellants' arguments, CDE staff reviewed the full administrative record as provided by Santa Clara COE.

The appellants are appealing the Santa Clara County Committee on SDO's finding that criterion eight in *Education Code* Section 35753(a) is not substantially met and their subsequent decision to deny the territory transfer proposal. The appellants also believe that the reasons for the transfer are compelling.

The Santa Clara County Committee on SDO's definition of "compelling need" includes, but is not limited to, geographic isolation, which requires either more than 20 minutes travel time to the nearest school or travel on roads or in traffic that places a student in significantly greater danger during the commute between his home and the closest schools within the current district of residence than during the commute between his home and the closest school in the desired district of residence (Attachment 4).

The feasibility study prepared by the Santa Clara County Office of Education (COE) on this proposed transfer of territory states that for elementary and middle school students, travel distance and time to Loma Prieta Joint Union ESD are shorter than the travel distance and time to Scotts Valley USD schools. For high school students, the travel distance to either Los Gatos or Scotts Valley high schools is approximately the same, and students must travel on Highway 17 if attending either school (unless an alternate route is taken). Due to heavy commute traffic northbound on Highway 17, the travel may be longer to Los Gatos High School than to Scotts Valley High School during the morning commute. In addition, there is a greater concern over student safety because of the heavy commute traffic.

Using the most generally accepted routes to and from the petition area, the distances and travel times to the various schools were measured by both the Santa Cruz and Santa Clara COEs as shown below:

Schools	Distance (Miles)	Time (Minutes)
<u>Elementary Schools</u>		
Loma Prieta (Loma Prieta Joint Union ESD)	2.2	4
Vine Hill (Scotts Valley USD)	8.6	15
<u>Middle Schools</u>		
C.T. English (Loma Prieta Joint Union ESD)	2.2	4
Scotts Valley Jr. High (Scotts Valley USD)	11.6	18
<u>High Schools</u>		
Los Gatos (Los Gatos-Saratoga Joint Union HSD)	7.3	13
Scotts Valley (Scotts Valley USD)	8.2	14

Travel times to both the elementary and middle schools are significantly longer for the Scotts Valley USD schools. Also, the trips to the Scotts Valley USD schools require travel over Highway 17, which the appellants consider to be dangerous, and the travel time is subject to variation due to changing conditions on Highway 17. The times of the day that parents usually take students to and from school coincide with the heavy traffic times caused by the Santa Cruz-San Jose area commuters. School bus service is available in the Loma Prieta Joint USD to both the elementary and middle schools. Santa Clara County public transportation provides service to Los Gatos High School with a bus stop located near the property. There is no bus transportation to any of the Scotts Valley schools. Furthermore, the lots proposed for transfer are geographically isolated. The owners must drive through the territory of Loma Prieta Joint USD and Los Gatos-Saratoga Joint Union HSD in order to get to Scotts Valley USD schools.

In addition, the appellants consider themselves part of the Los Gatos community. The appellants indicate that children who live close to each other, who play together, and whose parents have social relationships may attend schools in different districts if this transfer is not approved. This division will have a disruptive effect on the social, recreational, and educational relationships in their neighborhood, according to the appellants. The feasibility studies from both the Santa Clara COE and the Santa Cruz COE state that this territory has strong historical and current ties with the Santa Clara schools, work places, and communities. This sense of community identity felt by the residents of the territory proposed to be transferred is not felt for schools or communities in Santa Cruz County.

There appears to be enough reason to believe that the proposed territory transfer is not primarily designed to result in a significant increase in property values causing financial advantage to property owners. Although the property to be transferred is currently vacant, the appellants

currently live on the same street as the property. Their current residence is in the Los Gatos-Saratoga Joint Union HSD and the Loma Prieta Joint Union ESD. The transportation and community identity issues are sufficiently compelling to show that this transfer is warranted. It appears that all of the requirements of *Education Code* Section 35753(a) are met.

STATE BOARD OPTIONS

Upon receipt of an appeal the SBE may, pursuant to *Education Code* Section 35710.5(c):

1. Summarily deny review of the appeal, thus ratifying the Santa Clara County Committee on SDO's decision. (Attachment 5- Alternative Proposed Resolution)
2. Review the appeal for noncompliance by the county committee, in this case the Santa Clara County Committee on SDO, with the provisions of the specified *Education Code* sections, either solely on the administrative record or in conjunction with a public hearing.

If the SBE elects to review the appeal, the SBE, following the review, will:

- (a) affirm or reverse the action of the county committee, and
 - (b) if the petition will be sent to election, determine the area of election (discussed later in this report under *Area of Election Legal Principles* and *Recommendations*).
3. Reverse or modify the action of the Santa Clara County Committee on SDO in any manner consistent with law.

AREA OF ELECTION LEGAL PRINCIPLES

The Local Agency Formation Commission¹ (*LAFCO*) court decision provides the most current legal interpretations to be followed in deciding the area of school district reorganization elections. The court in *LAFCO* held that in the absence of racial issues, or a declared public interest underlying the determination that has a real and appreciable impact on the equality, fairness, and integrity of the electoral process, that the rational basis test should be used to determine whether the area of election should be less than the total area of the district affected by the proposed reorganization. In applying the rational basis test, a determination must be made as to whether:

1. There is a genuine difference in the relevant interests of the groups, in which case an enhancement of the minority voting strength is permissible; and

¹ *Board of Supervisors of Sacramento County, et al., v. Local Agency Formation Commission* (3 Cal. 4th 903, 1992)

2. There is a legitimate public purpose to which a reduced voting area has a fair relationship:
 - (a) The fair relationship to a legitimate public purpose is found in *Government Code* Section 56001, which expresses the legislative intent "to encourage orderly growth and development," such as promoting orderly school district reorganization statewide under the concept of master planning.
 - (b) Preserving the concept of master planning allows for planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration. This concept includes both:
 - (1) Avoiding the risk that residents of the area to be transferred, annexed, or unified might be unable to obtain the benefits of the proposed reorganization if it is unattractive to the residents of the remaining district; and,
 - (2) Avoiding islands of unwanted, remote, or poorly served school communities within large districts.

RECOMMENDATIONS

Appeal Recommendation

CDE staff recommends that the SBE reverse the action of the Santa Clara County Committee on SDO by supporting the action of the Santa Cruz County Committee on SDO and adopt the proposed resolution in Attachment 2.

Following are the reasons for granting the appeal:

1. All nine criteria listed in *Education Code* Section 35753(a) are met. Contrary to the conclusion of the Santa Clara County Committee on SDO, there is substantial reason to believe the proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to another.
2. It is a safer commute to the elementary school and middle school in Santa Clara County since this would avoid the necessity of traveling on Highway 17 to attend the elementary and middle schools in Santa Cruz County. In addition, the commute time to the elementary and middle schools in Santa Clara County would be significantly shorter.
3. There is daily school bus service to Loma Prieta schools and county transit bus to Los Gatos High School, while there is none to the Scotts Valley schools.

4. Strong community identity exists between the Hutchinson Road area and the Los Gatos community in Santa Clara County.

If the SBE affirms the Santa Clara County Committee on SDO's decision, the county's action denying the transfer stands. However, if the SBE reverses the action of the Santa Clara County Committee on SDO, as recommended, and approves the transfer of territory, the SBE must also determine the area of election, which is discussed in the next section.

Area of Election Recommendation

Residents of Hutchinson Road/E. Zayante Creek have genuinely different relevant interests from the remaining residents of the Scotts Valley USD. The majority of Hutchinson Road/E. Zayante Creek residents wish to transfer to the Los Gatos-Saratoga Joint Union HSD and Loma Prieta Joint Union ESD, while the remaining voters in the Scotts Valley USD would likely be indifferent to the proposal. The quality of education provided children attending the Scotts Valley USD will not be negatively impacted by the transfer, since no students affected by the transfer attend the district. Finally, these petitions do not promote segregation or discrimination. Thus, exclusion of the Scotts Valley USD from the vote meets the LAFCO court decision's rational basis test.

Based on the CDE staff analysis, the impact of the petitions on the receiving districts would be insignificant. Thus, it is our opinion that voters in the Los Gatos-Saratoga Joint Union HSD and Loma Prieta Joint Union ESD would also be relatively unaffected by the proposal, and exclusion of the districts from the vote would also meet the LAFCO court decision's rational basis test.

Therefore, if the SBE reverses the action of the Santa Clara County Committee on SDO and approves the territory transfer, CDE staff recommends the SBE establish the petition area as the area of election. In this case the election area currently is uninhabited. Although there are no current registered voters residing in the area of election, the SBE is required by law to determine an election area and direct the county superintendent of schools with jurisdiction over the area to call an election. Local officials (county superintendent of schools, registrar of voters, etc.) must determine whether registered voters reside in the area at the time of election and, if not, what local actions are necessary to comply with legal requirements.

CALIFORNIA STATE BOARD OF EDUCATION

February 2003

PROPOSED RESOLUTION

Appeal by the Chief Petitioners regarding the Santa Clara County Committee on School District Organization's Disapproval of a Transfer of Territory Known as the "Hutchinson Road/E. Zayante Creek" Multiple Parcel Area from the Scotts Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Loma Prieta Joint Union Elementary School District in Santa Clara County

RESOLVED, that under the authority of *Education Code* Section 35710.5, the appeal, filed on or about June 1, 2000, by chief petitioners from an action of the Santa Clara County Committee on School District Organization disapproving a transfer of territory from the Scotts Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Loma Prieta Joint Union Elementary School District in Santa Clara County is hereby granted; and be it

RESOLVED further, that the Santa Clara County Superintendent of Schools and the Santa Clara County Committee on School District Organization be informed that, under Section 35710.5 of the *Education Code*, the County Committee's action to deny such petition is reversed by the State Board of Education; and be it

RESOLVED further, that the State Board of Education has determined the area of election to be that of the petition area; and be it

RESOLVED further, that the Santa Cruz County Superintendent of Schools call an election on the transfer of territory within the boundaries of the petition area, to be conducted at the next regular election; and be it

RESOLVED further, that the Secretary of the State Board of Education notify, on behalf of said Board, the Santa Clara County Committee on School District Organization, the Santa Cruz County Committee on School District Organization, the chief petitioners, and the affected school districts of the action taken by the State Board of Education.

CALIFORNIA STATE BOARD OF EDUCATION
February 2003

ALTERNATIVE PROPOSED RESOLUTION

Appeal by the Chief Petitioners regarding the Santa Clara County Committee on School District Organization's Disapproval of a Transfer of Territory Known as the "Hutchinson Road/E. Zayante Creek" Multiple Parcel Area from the Scotts Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Loma Prieta Joint Union Elementary School District in Santa Clara County

RESOLVED, that under the authority of *Education Code* Section 35710.5, the appeal, filed on or about June 1, 2000, by chief petitioners from an action of the Santa Clara County Committee on School District Organization disapproving a transfer of territory from the Scotts Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Loma Prieta Joint Union Elementary School District in Santa Clara County is hereby denied; and be it

RESOLVED further, that the Secretary of the State Board of Education notify, on behalf of said Board, the Santa Clara County Committee on School District Organization, the Santa Cruz County Committee on School District Organization, the chief petitioners, and the affected school districts of the action taken by the State Board of Education.